

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement •• Statements of Economic Interest  
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

April 2, 1985

Honorable Larry Stirling  
State Assembly  
State Capitol  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No. A-85-045

Dear Assemblyman Stirling:

Thank you for your letter requesting advice concerning your reporting duties under the Political Reform Act.<sup>1/</sup>

### QUESTION

Are you required to report on your Statement of Economic Interests transportation, food, and lodging provided to you and your wife by the government of South Africa in connection with your trip to South Africa to determine whether the State of California should divest its investments in that country?

### CONCLUSION

The cost of any transportation, food, and lodging provided to you by the government of South Africa must be reported as a gift on your Statement of Economic Interests if the total amount of benefits you received was in excess of fifty dollars (\$50).

### DISCUSSION

Section 82030 states the general rule that "income" for the purposes of the Political Reform Act includes any reimbursement for expenses. Although Section 82030(b)(2) specifies that reimbursement received from a state, local, or federal

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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government agency is excepted from the definition of income, this exception does not apply to your situation because you received reimbursement from a foreign government. More specifically, you received a gift from the government of South Africa when you accepted transportation, food, and lodging paid for by that government, and you did not provide consideration of equal or greater value. Section 82028.

The Commission has ruled that, under specific circumstances, payment of a public official's transportation and other expenses by an entity other than a state, local, or federal government agency may be considered a gift to the government agency rather than to the public official. In its opinion issued to Peter G. Stone, 3 FPPC Opinions 52 (No. 77-003, June 9, 1977), the Commission set forth the following four minimum criteria for determining when a gift is made to the government agency rather than to the official:

1. The donor intended to donate the gift to the public agency and not to the official;
2. The public agency exercises substantial control over use of the gift;
3. The donor has not limited use of the gift to specified or high-level employees, but rather has made it generally available to the public agency's personnel in connection with agency business without regard to official status; and
4. The making and use of the gift was formalized in a resolution of the public agency (a written public record will suffice for administrative agencies not possessing the legislative power of adopting resolutions) which embodies the standards set forth above.

In the Stone Opinion, the Commission stated that these four criteria are indications that the gift was made to the public agency only, without providing any significant or unusual benefit to the public official. The Commission indicated that when the four criteria are met, the public official receives a benefit that is analogous to reimbursement for expenses or per diem from a state, local, or federal government agency, items which are not reportable pursuant to Section 82030(b)(2).

The criteria of the Stone Opinion were not met in your case; therefore, the payment for your transportation and expenses constituted a gift to you rather than a gift to the state.

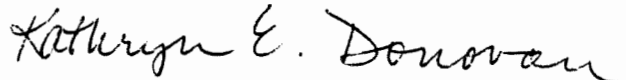
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You are required to disclose each source of gifts in excess of fifty dollars (\$50), and the amount and date of the gifts, on your Statement of Economic Interests,. Section 87302(b). Section 81011 also requires that when the amount of goods, services, facilities, or anything of value other than money is required to be reported, the amount shall be the estimated fair market value at the time received or expended, and a description of the goods, services, or facilities shall be appended to the report or statement. Therefore, you must describe the gifts you received, and disclose the estimated fair market value and date of the gifts.

In general, you are not required to report gifts made to your spouse. Cory Opinion, 2 FPPC Opinions 48 (No. 75-094-A, April 22, 1976). Therefore, you are not required to disclose the cost of transportation, food, and lodging provided to your wife by the government of South Africa.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan  
Counsel  
Legal Division

KED:plh

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Assembly  
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FEB 22 4 28 PM '85

LARRY STIRLING  
ASSEMBLYMAN, SEVENTY-SEVENTH DISTRICT

February 22, 1985

State of California  
Fair Political Practices Commission  
1100 K Street  
P. O. Box 807  
Sacramento, CA 95804

Gentlemen:

From September 21 through October 13, 1984, my wife and I visited South Africa as official guests of the Department of Foreign Affairs.

The purpose of the trip was to determine whether the State of California should divest its investments in that country. Enclosed is a letter regarding the expenses for the trip. Could you please provide a written detailed opinion as to whether these expenses are reportable as a gift on my annual Statement of Economic Interests. Please send a copy of the opinion to the office of the Legislative Counsel.

As the report is due March 1, I would appreciate your immediate reply. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Larry Stirling".  
LARRY STIRLING  
Assemblyman, 77th District

LS:dkk

TEL (213) 858-0380  
TELEX 69-1429  
YOUR REF  
OUR REF  
ENQUIRIES



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BEVERLY HILLS, CA 90210

SOUTH AFRICAN CONSULATE-GENERAL  
BEVERLY HILLS

B8/6/2/35

January 7, 1985

JAN 11 1985

The Honourable Larry Stirling  
7777 Alvarado Road  
Suite 315  
La Mesa, CA 92041

Dear Assemblyman Stirling

I would inform you that the South African authorities have advised that the expenses relating to a visit of an official guest and his wife are estimated as follows:

R11,000 = \$5,720 at current exchange rate. This is made up as follows:

Transportation:

Being air and road travel to and from the Republic.

R6,000 = \$3,120.

Accommodation and Meals:

R4,500 = \$2,340.

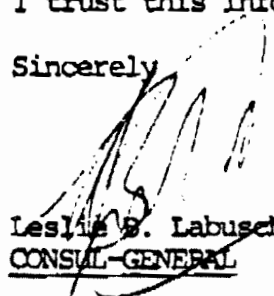
Government Garage:

Motor Transportation.

R 500 = \$ 260.

I trust this information is appropriate for your purposes.

Sincerely

  
Leslie B. Labuschagne  
CONSUL-GENERAL